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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,598	02/20/2002	Jonathan D. Hille	40374.1500	9651
20322	7590	01/14/2004	EXAMINER	
SNELL & WILMER ONE ARIZONA CENTER 400 EAST VAN BUREN PHOENIX, AZ 850040001			CHOI, JACOB Y	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/081,598	HILLE ET AL.	
	Examiner	Art Unit	
	Jacob Y Choi	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/03/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 6, 8-12, 15, 18, 21, 23, 25-30, 32, 36 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 2, 6, 10, 12, 15, 18, 21, 23, 27-30, 32, & 37 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 25, 26 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 02/20/2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 6, 10, 12, 15, 18, 21, 23, 27- 30, & 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Porter et al. (USPN 5,230,559).

Regarding claim 1, Porter et al. discloses a housing (12), wherein the first assembly comprises, a lamp fixture (14) a lid (26) configured to support the lamp fixture, wherein the lid is held in vertical contact with a first end of the housing by gravity alone, and wherein the lid is configured to slidable contact with the housing (figures 1 & 3), and a linkage assembly (34) connected to the lid and supporting the lamp fixture, wherein

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the first assembly is configured to facilitate linear and both pitch and yaw rotational positioning (figure 2) of the lamp fixture, and wherein the first assembly is configured such that the step of removing the lid also removes the linkage assembly and the lamp fixture.

Regarding claim 2, Porter et al. discloses the housing comprises a cylindrical structure, and wherein the lid is further configured to facilitate rotation of the first assembly about an axis through the radial center of the cylindrical structure.

Regarding claim 6, Porter et al. discloses the lid further comprises a window (16) and wherein the window comprises a transparent covering configured to be recessed relative to a top surface of the lid of the positioning assembly, wherein the lid comprises a weep hole (gap between 32 & 38), and wherein the lid is configured to drain water off the surface of the transparent covering through the weep hole.

Regarding claim 10, Porter et al. discloses the housing further comprises a pour collar configured to be fixably attached to a cylinder.

Regarding claim 11, Porter et al. discloses the housing further comprises a collar configured to be fixedly attached to a cylinder and wherein the collar is configured to attached to the cylinder on both the outer and inner surface of a first end of the cylinder.

Regarding claim 12, Porter et al. discloses the housing has a second end and wherein the second end is configured to be an open end.

Regarding claim 15, Porter et al. discloses a lamp fixture body, a lamp, and a reflector, wherein the reflector is configured to reflect light from the lamp, wherein the lamp fixture body is configured with a support shelf for supporting the reflector (figure 1),

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wherein the lamp fixture body is further configured to support a filter lens, and wherein the lamp fixture body further comprises a lamp fixture cap and a lamp fixture base, and wherein the lamp fixture cap and lamp fixture base are configured to slideably connect to each other with at least one O-ring (figure 5) between the lamp fixture cap and lamp fixture base.

Regarding claim 18, Porter et al. discloses a housing, a lamp fixture, wherein the lamp fixture is configured to be a low voltage lamp fixture, a positioning assembly, wherein the positioning assembly is configured to allow transnational and both pitch and yaw rotational positioning of the lamp fixture, wherein the positioning assembly is configured to be received by a housing, and wherein the positioning assembly is configured to allow moisture to enter the housing.

Regarding claim 21, Porter et al. discloses a substantially planar lid configured to be supported by the housing, wherein the lid further comprises a window, and a linkage assembly connected to the lid and supporting the lamp fixture.

Regarding claim 23, Porter et al. discloses the lid further comprises a window (16) and wherein the window comprises a transparent covering configured to be recessed relative to a top surface of the lid of the positioning assembly, wherein the lid comprises a weep hole (gap between 32 & 38), and wherein the lid is configured to drain water off the surface of the transparent covering through the weep hole.

Regarding claim 27, Porter et al. discloses the housing further comprises a pour collar configured to be fixably attached to a cylinder.

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Regarding claim 28, Porter et al. discloses the housing further comprises a collar configured to be fixably attached to a cylinder, and wherein the collar is configured to attach to the cylinder on both the outer and inner surface of a first end of the cylinder.

Regarding claim 29, Porter et al. discloses the housing has an open end opposite the end of the housing that is configured to receive the positioning assembly.

Regarding claim 30, Porter et al. discloses the positioning assembly and lamp fixture are removable from the housing as a unit, and wherein the unit comprises a lid, a linkage assembly and the lamp fixture.

Regarding claim 32, Porter et al. discloses a lamp fixture body, a lamp, and a reflector wherein the reflector is configured to reflect light from the lamp wherein the lamp fixture body is configured with a support shelf for supporting the reflector, wherein the lamp fixture body is further configured to support a filter lens, wherein the lamp fixture body further comprises a lamp fixture cap and a lamp fixture base, and wherein the lamp fixture cap and lamp fixture base are configured to slideably connected to each other with at least one O-ring between the lamp fixture cap and lamp fixture base.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porter et al. (USPN 5,230,559).

Regarding claim 37, Porter et al. discloses the claimed invention, explained above. It has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961). Therefore, it is obvious to positioning a housing, adjusting the elevation of the lamp fixture relative to a top surface of a lid while the lid is not placed on the housing, adjusting the pitch of the lamp fixture relative to the top surface of the lid is not placed on the housing, placing the positioning assembly onto the housing, and adjusting the yaw of the lamp fixture relative to a vertical line perpendicular to the top surface of the lid is not placed on the housing.

Response to Amendment

4. Examiner acknowledges that the applicant has amended claims 1, 2, 6, 8-12, 15, 18, 21, 23, 27-30, 32, 36, & 37 and canceled claims 3-5, 7, 13, 14, 16, 17, 19, 20, 24, 31, & 33-35.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 2, 6, 8-12, 15, 18, 21, 23, 25-30, 32, 36, & 37 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

6. Claims 8, 9, 25, 26, & 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the claims recite a lighting fixture, comprising a housing, and first assembly having a lamp fixture, a lid configured to support the lamp fixture, wherein the lid is held in vertical contact with a first end of the housing by gravity alone, and wherein the lid is configured in slidable contact with the housing, and a linkage assembly connected to the lid and supporting the lamp fixture, wherein the first assembly is configured to facilitate linear and both pitch and yaw rotational positioning of the lamp fixture, and wherein the first assembly is configured such that the step of removing the lid also removes the linkage assembly and the lamp fixture where the linkage assembly further comprises an elongated member defining slotted groove, wherein the slotted groove is configured to receive a thumb-bolt assembly for slideably adjusting the fixture the distance between the lamp fixture and the lid. Porter et al. teaches an alternative structural that allows vertical and yaw movement of the lighting fixture within the housing but fails to disclose applicant's detailed structural limitations. Because none of the references disclose the combination of the linkage assembly, nor is there any motivation to combine them, the claims are deemed patentable over the prior art of record.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y Choi whose telephone number is (571) 272-2367. The examiner can normally be reached on Monday-Friday (10:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-7724.

JC

John H. [unclear]
[unclear]
[unclear]